

**REMARKS**

Claims 1, 3, 5, 7, 9, 11, 13, 15, 16, 18-27, and 32-36 are currently pending in this application. By this response to the non-final Office Action dated December 21, 2007+, claims 1, 5, 11, 16, 18, 19, 21, 23, and 27 are amended, claims 2, 4, 6, 8, 10, 12, 14, 17, and 28-31 are canceled, and new claims 32-36 are added. Care has been taken to avoid the introduction of new matter. Favorable reconsideration of the application in light of the following comments is respectfully solicited.

**Note Regarding the Amendments to the Claims**

As previously presented, some claim limitations included the term “means.” However, the claims, as amended, no longer make use of the term “means,” so that the pending claims do not invoke 35 U.S.C. § 112, ¶ 6.

**Rejections Under 35 U.S.C. § 112, ¶ 2**

In section 5 of the Office Action, claims 1 and 18 were rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for use of the term “appropriately.” Claims 1 and 18, as amended, no longer recite the term “appropriately.” Thus, Applicants respectfully submit that claims 1 and 18 are in accord with 35 U.S.C. § 112, ¶ 2, and request withdrawal of the rejections.

In section 6 of the Office Action, claims 5 and 11 were rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for lacking antecedent basis for the previously recited “plurality of previous clocks.” Claims 5 and 11 have been amended to recite a “plurality of entries,” in accord with the interpretation advanced by the Examiner. Thus, Applicants respectfully request withdrawal of the rejections.

In section 7 of the Office Action, claim 18 was rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for reciting “a compiler.” Applicants respectfully submit that claim 18, as amended, is in accord with 35 U.S.C. § 112, ¶ 2, as respectfully request withdrawal of the rejection.

In section 8 of the Office Action, claims 2-27 and 29-31 were rejected under 35 U.S.C. § 112, ¶ 2, due to their dependency on the above rejected claims. As the above claims are in accord with 35 U.S.C. § 112, ¶ 2, Applicants respectfully request withdrawal of all of the rejections under 35 U.S.C. § 112, ¶ 2.

**Rejections Under 35 U.S.C. §§ 102, 103(a)**

In section 10 of the Office Action, claims 1-16 and 28-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 7,155,722 (Hilla). In section 11 of the Office Action, claims 17-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hill in view of U.S. Patent No. 5,274,815 (Trissel). Applicants respectfully traverse these rejections.

**Claim 1 (and dependent claims 3, 5, 7, 9, 11, 13, 15, 19, 21, 23, and 25)**

Claim 1, as amended, recites limitations related to those previously presented in claim 17. Nevertheless, claim 1 is neither anticipated by Hilla, nor obvious in view of the proposed combination of Hilla and Trissel.

Claim 1 recites, *inter alia*,

a substituting step, which substitutes an equivalent process for a process using the resource, based upon the results of the determining step; wherein the equivalent process is **for the processor**, is equivalent to the process using the resource, and makes reduced use of the resource.

As emphasized above, according to claim 1 a process is substituted with an equivalent process “for the processor” (*i.e.*, the equivalent process is also controlled by the processor). In

contrast, Hilla only discloses using a different processor. Hilla's load balancing apparatus does not "substitute [an equivalent process for the processor] for the process identified." Instead, in determining whether to execute a task on a given processor resource, based on its observations of load activity, load balancer 500 will simply assign a task to a **different**, and essentially independent, **processor** resource. This does not provide an "equivalent process [which] is **for the processor**," as recited – instead, it avoids using the processor altogether. Thus, Hilla does not disclose or suggest the recited "substituting step" or "equivalent process" recited therein. Trissel does not cure this shortcoming.

For at least the above reasons, Hilla and Trissel are unable to sustain a *prima facie* case of anticipation or obviousness of claim 1. Thus, Applicants respectfully request withdrawal of any rejections under 35 U.S.C. §§ 102, 103(a) against claim 1, or its dependent claims 3, 5, 7, 9, 11, 13, 15, 19, 21, 23, and 25.

Claim 16 (and dependent claims 32-34)

Claim 16 recites, *inter alia*, that "the first processor can access a plurality of memory banks **by using a same address**" and "memory bank switching." The Office Action equates Hilla's session blocks 420 (see FIG. 4) with the recited "memory banks" (Office Action, page 12, lines 17-18), and processor 302 with the recited "processor." However, Hilla does not disclose that processor 302 can access the session blocks 420 "by using the same address," as recited in claim 16. Instead, as highlighted by the Office Action, Hilla states that

[t]he address space of the memory is **apportioned into various regions**, one of which is a region 410 configured to store sessions. This "session" region 410 is further **divided into various blocks 420**.  
(col. 6, lines 5-8) (*emphasis added*).

In other words, and as illustrated in FIG. 4 of Hilla, each session block resides at a **different** address and is accessed by processor 302 by using the **different** addresses. Trissel does not cure this shortcoming.

Additionally, claim 16 recites “alter[ing] software processing processes . . . in response to contention information.” For reasons similar to those discussed with regard to Hilla not disclosing “chang[ing] a software processing method to be executed in response to contention information,” as recited in claim 1, Hilla also does not disclose or suggest “alter[ing] software processing processes,” as recited in claim 16.

For at least the above reasons, Hilla and Trissel cannot sustain a *prima facie* case of anticipation or obviousness of claim 16. Thus, Applicants request withdrawal of the rejection of claim 16 under 35 U.S.C. § 102. For at least the same reasons as claim 16, its dependent claims 32-34 are not anticipated or obvious in view of Hilla and Trissel. Thus, Applicants respectfully submit that claims 32-34 are in condition for allowance.

Claim 18 (and dependent claims 20, 22, 24, 26, and 27)

Claim 18 recites limitations similar to those discussed with respect to claim 1. For at least the same reasons as claim 1, claim 18 is not anticipated or obvious in view of Hilla and Trissel. Thus, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §§ 102, 103(a) against claim 18, and its dependent claims 20, 22, 24, 26, and 27.

Claim 35 (and dependent claim 36)

Claim 35 recites limitations similar to those discussed with respect to distinguishing claim 16 over the cited art. For at least essentially the same reasons as claim 16, claim 35 is not anticipated or obvious in view of Hilla and Trissel. Thus, Applicants respectfully submit that claims 35 and 36 are in condition for allowance.

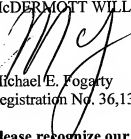
**Conclusion**

Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Michael E. Fogarty  
Registration No. 36,139

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 MEF:EMS/cac  
Facsimile: 202.756.8087  
**Date: March 31, 2008**

**Please recognize our Customer No. 53080  
as our correspondence address.**